CMPMO No. 135 of 2007.

26.12.2007 Present: Mr. Digvijay Singh, Advocate, for the petitioner

Mr. Ramakant Sharma, Advocate, for respondent No.1.

Vide the impugned order dated 18th June, 2007 the learned Court below had ordered to put in auction the property belonging to the petitioner which was attached earlier in execution of a money decree passed by the learned trial Court. The petitioner was one of the Judgment Debtors in the said case, he being Judgment Debtor No.3 in his capacity as a guarantor with respect to the loan amount secured by the other defendants-Judgment Debtors. Since the other defendants-Judgment Debtors did not have sufficient assets as well as means to satisfy the decree the satisfaction of the decree had to be brought about by attachment and sale of the property of the petitioner-Judgment Debtor.

On 29th June, 2007 a statement was made on behalf of the petitioner in this Court that the property forming the subject matter of Annexure P-5 could be sold because this property was attached during the pendency of the suit. This statement was falsely and incorrectly made in this Court on that date because in the reply filed by the respondent-Bank in this Court it has clearly been stated in para 2 thereof that the said property which was attached by the Court below on 19th June, 2004 during the pendency of the suit was subsequently sold clandestinely by the petitioner vide sale deed No.1266 dated 18th July, 2005. This fact has not been repudiated by the petitioner. The petitioner has, therefore, not come to this Court with clean hands and also made a false statement in this Court on 29th June, 2007.

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Even otherwise, I see no reason to interfere with the impugned order. The petition is dismissed.

CMP No. 442 of 2007.

In view of the dismissal of the main petition this application is also dismissed. The interim order shall stand vacated immediately and forthwith.

December 26, 2007. **(V.K. Gupta), C.J.**
(rc)